

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

METLAKATLA INDIAN COMMUNITY,

Plaintiff,

v.

MICHAEL J. DUNLEAVY, *et al.*,

Defendants.

Case No. 5:20-cv-00008-SLG

**ORDER RE ORAL ARGUMENT**

At the oral argument scheduled for February 15, 2024, at 11:00 a.m. in the Juneau Courtroom, the parties—as well as amicus curiae the United States—should be prepared to address the import of the following paragraph from the Ninth Circuit’s decision in *Metlakatla Indian Community v. Dunleavy*:

Second, Alaska argues that the Community is foreclosed from claiming an implied right to off-reservation fishing because Metlakatlans “had no aboriginal claims to preserve.” However, as discussed above, Metlakatlans and their Tsimshian ancestors asserted and exercised a right to fish in these waters since time immemorial. In passing the 1891 Act, Congress “confirmed the continued existence of th[is] right[ ].” *Adair*, 723 F.2d at 1414.<sup>1</sup>

DATED this 12th day of February, 2024, at Anchorage, Alaska.

/s/ Sharon L. Gleason

UNITED STATES DISTRICT JUDGE

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<sup>1</sup> 58 F.4th 1034, 1046 (9th Cir. 2023) (alterations in original) (quoting *United States v. Adair*, 723 F.2d 1394, 1414 (9th Cir. 1983)).